

**REMARKS**

Claims 1–12 are pending in the present application.

Claims 3, 4 and 7 are allowed.

Claims 5 and 6 were objected to.

Claim 1 has been amended as shown above.

Claims 11 and 12 have been canceled.

Claims 13-22 have been added.

Claims 1-10 and 13-22 are now pending in the application.

Reconsideration and full allowance of the claims is respectfully requested.

**Allowable Claims**

The Applicants thank the Examiner for the indication that Claims 3, 4 and 7 are in condition for allowance. These claims have not been amended and therefore remain in condition for allowance.

The Applicants also thank the Examiner for the indication that Claims 5 and 6 would be allowable if rewritten in independent form to incorporate the elements of its base claim and any intervening claim. Because the Applicants believe that the remaining claims in this application are allowable, the Applicants have not rewritten Claims 5 and 6 in independent form.

**35 U.S.C. § 103 (Obviousness)**

Claims 1, 2, 9 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,148,135 to *Suzuki*. Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Suzuki* in view of U.S. Patent No. 5,913,031 to *Blanchard*. These rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. (*MPEP* § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (*Fed. Cir.* 1992)). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. (*MPEP* § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (*Fed. Cir.* 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (*Fed. Cir.* 1984)). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. (*MPEP* § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (*Fed. Cir.* 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (*Fed. Cir.* 1993)). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. (*In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (*Fed. Cir.* 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (*Fed. Cir.* 1985)).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. (*In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (*Fed. Cir.* 1993)). To establish a *prima facie* case of

obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. (*MPEP* § 2142).

Amended independent claim 1 recites a table containing a latency for each stream type that a respective device that is a subject of the table is capable of processing. In an exemplary embodiment, a table contains a processing delay for each of MPEG2 or DV video, or for each of AC3 or MP3 audio. Claim 1 also recites means to delay one of two data streams by an amount determined by a difference of signal path latencies for the two data streams. Such features are not found in the cited references.

*Suzuki* describes a audio-video receiver that receives a stream of audio and video packets, temporarily stores the packets in respective audio and video buffer memory, and decodes each packet when a system clock reference matches the packet's associated time stamp. *Suzuki*, Fig. 4, col. 8, line 48, through col. 9, line 19. A video and audio synchronization controller receives an audio time stamp, a video time stamp, and a system clock reference. It compares the audio and video time stamps independently to the system clock reference, and produces independent respective audio and video decoding start control signals when matches occur. *Suzuki*, Fig. 1, col. 8, lines 43-47. As may be seen from Figures 5A and 5B of *Suzuki*, the delay between the

receipt of a packet and its decoding is dependent upon the sequence and timing of the packets in the received data stream and the time stamp assigned to each packet.

The Examiner asserted that the audio and video time stamp memories shown in Figure 6 of *Suzuki* describe a table identifying a latency for a stream type that a device is capable of processing. The Applicants respectfully submit that the Examiner mischaracterizes the teaching of *Suzuki*. As described above, *Suzuki* discloses a time stamp for initiating the decoding of each audio and video packet in a data stream, rather than a latency that a data stream will experience during processing in a device.

Furthermore, the Examiner asserts that the audio and video synchronization controller of Figure 4 and the text at column 9, lines 7-12, describe a means to delay one of two data streams by an amount determined by differing signal path latencies for the two data streams. The Applicants have amended Claim 1 to clarify that the data stream is delayed by a difference of signal path latencies. As described above, the audio and video synchronization controller of Figures 1 and 4 utilize the audio and video time stamps independently to trigger decoding of audio and video packets at the appropriate times.

*Blanchard* does nothing to overcome these shortcomings of *Suzuki*. Therefore, the rejection of claims 1, 2, 9 and 10 under 35 U.S.C. § 103 has been overcome.

### New Claims

The Applicants have added new Claims 13-22. The Applicant respectfully submits that no new matter has been added and requests entry and full allowance of Claims 13-22.

SUMMARY

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication (including any extension of time fees) or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: \_\_\_\_\_

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